

Service Date: October 2, 1980

FINAL ORDER NO. 4698

DEPARTMENT OF PUBLIC SERVICE REGULATION
MONTANA PUBLIC SERVICE COMMISSION

In the matter of the Application of) UTILITY DIVISION
the TOWN OF JOLIET to Increase Sewer) DOCKET NO. 80.5.12
Rates.) ORDER NO. 4698

* * *

APPEARANCES

FOR THE APPLICANT:

Wayne Vick, Attorney at Law, Bridger Law Office, Bridger,
Montana.

FOR THE PROTESTANTS:

Frank E. Buckley, Rate Analyst, office of the Montana
Consumer Counsel; 34 West Sixth, Helena, Montana 59601.

FOR THE COMMISSION:

Robert F. W. Smith, Staff Attorney, 1227 11th Avenue, Helena,
Montana 59601.

BEFORE:

THOMAS J. SCHNEIDER, Hearing Examiner

The Examiner, having taken evidence and being full~, advised
in the premises, makes the following findings, conclusions
and order:

FINDINGS OF FACT

1. On April 25, 1980, the TOWN OF JOLIET (Applicant) filed a
petition with the Montana Public Service Commission
requesting that the Commission, authorize a sewer rate
increase to provide revenues to defray increased costs of
operation, to maintain and repair existing systems.

2. A hearing was requested on this matter, and on July 16,

1980 the Commission gave notice that it had scheduled the matter for hearing at 10:00 a.m., August 14, 1980, in the City Council Chambers, City Hall, Joliet, Montana.

3. At the August 14th hearing, two witnesses testified for the Town:

Lillian Amundsen, City Clerk, and Paul Kinshella, Consulting Engineer. Three consumers also testified:

Leonard Hash, Bill Harkin, and Neil Duke.

4. Mrs. Amundsen gave the policy background of the City's request, which is the result of an EPA order. The EPA found an excessive amount of surface water in the town's sewer system and ordered repair by 1980. The Town has made part of the repairs funded by an EPA grant and an FHA loan. The FHA loan, for \$76,000, is due to be received on October 1st. On cross-examination, Mrs. Amundsen did admit that the town sewer facility did incur some non-recurring expenses last year for advertising on the EPA project; however, she also stated that the town keeps no reserve for emergencies, and that the town will soon be advertising for EPA mandated construction on the sewer plant itself.

5. Mr. Kinshella has been working with the town on a contract for studying and meeting the EPA requirements. Mr. Kinshella said that when the town was informed by the EPA that there was an excessive amount of surface water entering the sewer system, there were two basic options: Build a plant large enough to treat all the water, or build a small plant and fix the sewer lines to keep surface water out. The comparative costs were \$1, 321,848 for a large plant, or \$869,315 for a small plant and line repair. The \$1/2 million difference decided the issue. There are no plant costs in this

application, as that construction is scheduled for the future.

The calculation of rates was also explained. Using national averages of 100 gallons per day per person, 3.2 persons per residence, and 15 average residences per school, the town figures 279 residential equivalents; each residential equivalent must then pay \$51.50 per year. No inflation or population growth is projected for the town; another rate increase will be required in two years when plant costs are incurred. Mr. Kinshella concluded that the EPA requires a rate spread similar to that used, with equal rates modified for volume and sewage strength considerations.

6. On cross-examination, Mr. Kinshella said that the FHA loan has been approved informally, and that all that remains prior to receiving the money is final Corps of Engineers approval of the project. Questions were also raised about the use of national averages in the rate calculation. In Mr. Kinshella's opinion the use of the figure of 3.2 persons-per residence was better than attempting to count people, due to the potential for cheating and the cost of counting. Also the use of one residential equivalent for all bars, cafes, and service stations, and two equivalents for the town laundromat, was questioned. Rates for apartment houses and trailer courts were figured by the number of units minus one equaling the number of residential equivalents.

Administrative notice was taken of the town's most recent water rate Order No. 4361 to provide information on which to base any changes in the proposed rate structure. Mr. Kinshella admitted that he had not studied the proposed rate structure in an attempt to recognize local conditions. The FHA requires that the town build a contingency fund by

collecting 110 percent of money due for 3-5 years. The time frame on the second phase of construction foresees plant type selection this fall and Department of Health approval in one year, with construction being complete in 1 2 to 2 years. Almost all questions from the public concerned the fact that since the sewer had been sealed to surface water, the water table under Joliet had risen so that there was now many more basements being flooded. The only solution Mr. Kinshella could offer was that people should water their lawns with this excess surface water. His answers revealed that neither the engineers nor the Town Fathers had adequately considered the effects of sealing sewer lines. However, this matter is beyond the Commission's jurisdiction, and a solution to this problem will have to be fashioned politically by the residents of Joliet.

7. Mr. Hash's main concern was that compaction after main repair was not being properly performed. Extensive testimony was taken on this matter; the solution reached was to ensure that Mr. Hash was allowed to accompany the Corps of Engineers on their final inspection on the week following the hearing.

8. Mr. Harkin testified to several matters regarding the adoption and implementation of the construction program; he also questioned the proposed rate structure as it related to the rates for bars, cafes and the laundromat. Mr. Harkin also said, as a representative of local senior citizens that no special senior citizen rate had ever been requested. He added that in his opinion meters were a good idea. He also introduced a letter from Betty Steinmetz.

9. Mrs. Steinmetz's letter asked three questions:

1. Whether the 20 year mill levy instituted in 1952 for sewer system construction had been taken off

when fully paid?

2. Why are further repairs necessary since they have been made this year? and
3. Could a temporary rate increase be used to pay this construction rather than a permanent rate increase?

In answer to Mrs. Steinmetz's first question, the issue of mill levies is beyond the scope of the Public Service Commission and should be taken up with the Town Council. In answer to Question 2, Docket No. 80.4.12 is to consider raising the town's sewer rates to pay for the repairs that the EPA has ordered. Finally, this is in a sense a "temporary" increase, one that lasts 20 years until the bonds are paid. All other things remaining unchanged, the Commission would consider reducing the rates at that time; however, it is difficult to say what the situation will be then.

10. With regard to the town's expense statistics, the Commission has assembled what it considers to be the figures best supported in the record, as there was some difference between the town's two witnesses. First, the Commission accepts Mrs. Amundsen's 1981 Budget estimate for operation and maintenance of the sewer utility of \$7,500. Second, the Commission accepts Mr. Kinshella's estimated debt service cost of \$6,630, from the town's pre-filed user charge study. This results in a total revenue requirement of \$14,130, as opposed to last year's total sewer utility revenues of \$7,165.81.

11. As for the structure of rates necessary to yield this total amount of revenue, concern was expressed that bars,

cafes, and laundromats might receive an unwarranted break under the proposed rates, as the bars and cafes are treated as one residential equivalent and laundromats as two residential equivalents. Mr. Kinshella admitted that actual usage might well differ, so administrative notice was taken of Docket No. 6482, the Town of Joliet's most recent water rate increase. Order No. 4631 in that Docket indicates that bars and cafes there were treated as equivalent to 1.25 residences, and that laundromats were treated as the equivalents of four (4.0) residences. With the inclusion of these modifications, the Commission accepts the town's proposed rate structure, but urges the town to investigate these users further so that as equitable a rate structure as possible may be adopted in the town's next sewer rate case.

12. By written stipulation, both the town and the Montana Consumer Counsel stated that no Proposed Order need issue in this Docket, and that a Final Order would be acceptable.

CONCLUSIONS OF LAW

1. The Montana Public Service Commission properly exercises jurisdiction over the parties and subject matter in this proceeding.
2. The Commission afforded all parties notice and an opportunity to participate in this proceeding.
3. Pursuant to 2-4-622, MCA, a Final Order in this Docket may properly issue.
4. The rates approved herein are reasonable and just.

ORDER

NOW THEREFORE, at a session of the Public Service Commission, Department of Public Service Regulation of the State of Montana, held in its offices at 1227 11th Avenue, Helena, Montana, on the 29th day of September, 1980, there being present a quorum of Commissioners, there came regularly before the Commission for final action the matters and things in Docket No. 80.5.12, and the Commission being fully advised in the premises;

IT IS ORDERED by the Commission that the Town of Joliet shall file rate schedules which yield total annual revenues of \$14,130 pursuant to the rate structure modification described in Finding of Fact No. 11.

IT IS FURTHER ORDERED that these new rates for the Town of Joliet Sewer Utility shall be effective upon approval by the Commission of the tariffs to be filed.

IT IS FURTHER ORDERED that a full, true and correct copy of this order be sent forthwith by first class United States mail to all parties to this Docket.

THE FOREGOING ORDER was adopted by the Department of Public Service Regulation of the State of Montana, Public Service Commission, IN OPEN SESSION at Helena, Montana, this 29th day of September 1980, by a vote of 5 to 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

GORDON E. BOLLINGER, Chairman

CLYDE JARVIS, Commissioner

THOMAS J. SCHNEIDER, Commissioner

JAMES R. SHEA, Commissioner

GEORGE TURMAN, Commissioner

ATTEST:

Madeline L. Cottrill
Commission Secretary

(SEAL)

NOTE: You may be entitled to judicial review of the final decision in this matter. If no Motion for Reconsideration is filed, judicial review may be obtained by filing a petition for review within thirty (30) days from the service of this order. If a Motion for Reconsideration is filed, a Commission order is final for purpose of appeal upon the entry of a ruling on that motion, or upon the passage of ten (10) days following the filing of that motion. cf. the Montana Administrative Procedure Act, esp. Sec. 2-4-702, MCA; and Commission Rules of Practice and Procedure, esp. 38 2.2(64)-P2750, ARM.